Amendment Dated: July 5, 2005
Reply to Office Action dated April 6, 2005

REMARKS

We thank the Examiner for his efforts to date, including taking the time to discuss the case with Jeffrey Measures (Reg. No 40, 272) on June 28, 2005, and for the allowance of claims 9-20.

During the telephone interview of June 28, 2005, we discussed the amendments made today to the claims, and the below stated reasons why the invention as claimed patentably distinguishes over the Chandra reference.

Currently, claims 1-8 and 21-22 are rejected under 35 U.S.C 102(e) as being anticipated by Chandra et. al (U.S. Patent 6, 457, 047).

The rejection is traversed as Chandra does not teach or suggest the invention as claimed in claim 1 (Currently amended), which for convenience purposes is set out below:

A data network management system for *positioning data* in a data network of nodes, the data having a plurality of data servers, and the data network having a plurality of end users, the system including:

- a main data storage means for storing the data sent to the end users in the data network;

- *demand monitoring means* for monitoring end user requests for data;

- a *data positioning* means, *responsive to* said *demand* monitoring means, for *sending a copy of data* stored in the main data storage means to one or more selected data servers selected from the plurality of servers based on specific predetermined criteria, each of said one or more data servers having a location proximate to at least one end user requesting the data from a node; and

- a memory means for maintaining a data file containing a current location of the data sent to said selected data servers.(*emphasis added*).

Without limiting the generality of the foregoing, as discussed, the Chandra reference differs from the claimed invention as the Chandra reference relates to determining where, within the

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network the requested data already resides in cache, and does not teach or suggest actively positioning data at servers proximate to the requesting end users.

Furthermore, and without limiting the generality of the foregoing, the Chandra reference certainly does not teach positioning copies of said data responsive to demand monitoring means for monitoring end user requests for data.

Accordingly it is submitted that claim 1 patentably distinguishes over the Chandra reference. Consequently, all the dependent claims depending from claim 1 patentably distinguishes over the Chandra reference. However, each dependent claim 2-5 has been amended to include subsequent limitations which further distinguish over Chandra reference.

In particular, claim 2 now includes deletion means for deleting said copy from one of said selected data servers if the number of requests from end users who are proximate to said data server fail to satisfy a criteria. This aspect is certainly neither taught nor suggested by the Chandra reference. Accordingly claim 2 is allowable over the Chandra reference.

Similarly, claim 3 adds redirection means for redirecting subsequent requests to a selected data server for requests from end users who are proximate to said selected data server. This limitation is neither taught nor suggested by Chandra, which certainly doesn't teach the added limitation where the redirection means sends instructions to the end user to request the specific data from the selected data server. Accordingly, claims 3-5 are allowable over the Chandra reference.

Regarding the rejection to Claim 6, it is noted that no reasons are given regarding rejecting this claim, and it is different from claim 1.

Claims 6-8, which recite a method, are rejected for the same reasons as for claims 1-5 which is a system.

As discussed during the above referenced telephone interview of June 28, Claim 6 already patentably distinguishes over the Chandra reference. The minor amendments suggested by examiner to Claim 6 are made for clarification purposes only, and do not affect the scope of claim 6.

Claim 6 is allowable over the Chandra reference as the Chandra reference fails to teach the invention as claimed. Without limiting the generality of the foregoing, Chandra does not teach or suggest "sending specific data from the main server to said first data server", as already discussed.

Moreover, applicant asserts that Chandra also does not teach or suggest the claim limitation: "(e) sending instructions to the end user to request the specific data from the first data server."

Consequently, claim 6 is allowable, as are claims 7 and 8 (currently amended, which depend on claim 6) which clearly add limitations that further distinguish over the Chandra reference.

Claim 21 has been amended to correspond to the language of claim 1 (currently amended) and claim 22 has been amended to correspond to the language of claim 6 (currently amended). Accordingly both are allowable for the reasons discussed above.

Claims 9-20 are allowed.

Withdrawal of the rejections to claims 1-8 and 21-22 and allowance of all claims in the application is therefore requested.

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No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account. Applicant submits that the application is now in condition for allowance, and favorable action to that end is respectfully requested.

Respectfully submitted,

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